

## **DETAILED ACTION**

### ***Response to Arguments***

1. Applicant's arguments filed 11/07/2011 have been fully considered but they are not persuasive.

A – Applicant argues: “Either way, both Gusler embodiments are in the specific context of the mall map in Fig. 4 and proximity determinations are made by the user, not the Gusler software, based purely on the map. In fact, paragraph [0058] says with respect to the first embodiment that ‘a shopper... may notice that a buddy is currently shopping at an online music store.’ Paragraph [0059] states that a user may ‘jump’ and view the same web page as another user. But neither embodiment identifies other user ‘by calculating a virtual distance between a web page that a user is accessing through a first terminal and web pages accessed by other users through one or more second terminals,’ as recited in Applicants’ claims. “.

A – The Examiner respectfully disagrees: Gusler discloses that users access the online stores through a collection of web sites [Gusler, paragraph 10], hence, users are accessing web pages, as web sites are made up of web pages. Gusler also discloses multiple users online [Gusler, paragraph 37]. Gusler further discloses that users who are in close proximity to each other on the web sites [Gusler, paragraphs 47, 49, 52 and 62,

showing that users are virtually close based on the web pages that the users may be on at that moment, (i.e., if a user is at the same store, (say a sporting goods store or a music store), they may not be looking at the same items, but are virtually close on the same web site that consists of web pages for that store)].

It is further noted that applicants specification paragraph 6 discusses "a user visiting web pages that are conceptually 'near' the web site or web page.". A user in Gusler that is viewing a web page within a particular store would be considered conceptually close to a user that was also viewing an item in the same store (it may also be the same item or an item related to sports or outfits, but, conceptually close in a web page is not defined within the claims, as such, two or more people who like to shop at Target can be considered conceptually close, even if looking at two unrelated items).

B – Applicant argues: "Gusler does not disclose determining the location of a user based on a web page, nor does Gusler disclose determining distances between web pages.".

B – The Examiner respectfully disagrees: See Gusler, at least paragraphs 45-47, 52, 58 and 62, relating to a user's position being maintained (relating to a group of web pages in a mall or at a store) and the position of other shoppers within a mall or at a store (if two users are at the mall, they can be considered conceptually close (via web pages) as

they are both at the mall, if the two users happen to be viewing items within the same store, they are conceptually closer to each other (relating to the web pages) as they both enjoy the same store and the same reasoning applies to the users viewing items within the same department of the store, such as sporting goods or electronics or women's or baby's clothing etc, the system maintains a distance between two users by identifying where they are using a map, so if a user see's a buddy in the same store (i.e., a music store), the user can join up with the buddy. See instant specification, paragraph 38, which gives examples (but does not limit the claims to the examples) of virtual distance, which specifies that similar pages (e.g., Google) are virtually close, based on similar words or phrases (Target, music store, food court, etc, can all be considered as similar if two users are in the same area).

C – Applicant argues: “combining the alleged ‘communicating over the network (the internet or corporate intranet)’ disclosure of Herland with the alleged Gusler teaching would not have rendered Applicants’ claimed methods and systems obvious to a skilled artisan at the time of Applicants’ claimed invention.”.

C – The Examiner respectfully disagrees: Gusler teaching of determining users locations with respect to web pages and to other users would have been obvious to include a more open system such as taught in Herland making the combination obvious to one of ordinary skill in the art at the time the invention was made as both arts relate to a users web presence.

***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1, 3-4, 6-11 and 18-39 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gusler et al., (US Publication No. 2002/0178072), (hereinafter Gusler) and further in view of Herland et al., (US Publication No. 2003/0018747), (hereinafter Herland).

Regarding claims 1, 18-19, 25, 28 and 32, Gusler discloses providing a server having a distance calculating module operating thereon [Gusler, paragraphs 45 and 47, a server that is able to determine a shopper's position];  
using the distance module [Gusler, paragraph 47 (determine user's position)],  
calculating a virtual distance between a web page that a user is accessing through a first terminal and web pages accessed by other users through one or more second terminals [Gusler, paragraph 62, a shopper may configure a certain proximity zone, such as a virtual distance radius or a parameter such as within the same virtual store (the instant specification, paragraph 6 defines conceptually near another user)];

displaying for the user on a display a listing of other users determined to be within a predetermined virtual distance from the web page that the user is accessing [Gusler, paragraph 62];  
enabling the user to communicate with one or more of the other users from the displayed listing [Gusler, paragraph 52, initiate communications].

Gusler does not specifically disclose wherein the web page that the user is accessing and each of the web pages accessed by the other users comprise any web page on the Internet.

However, Herland, in the same field of endeavor discloses communicating over the network allowing other users to know the users interest in the similar web pages (the internet or corporate intranet), [Herland, paragraph 25].

It would have been obvious to one having ordinary skill in the art at the time the invention was made to include the entire internet in order to allow users to find each other when virtually close and to engage in communications when within a defined virtual distance. It would have been obvious to combine Herland with Gusler as both references relate to allowing a user to communicate with other users who may have the same interest with each other, making it obvious to one of ordinary skill in the art to combine the references in order to enhance a users online experience and allow them to communicate with other users with the same interests.

Regarding claim 3, Gusler-Herland further discloses wherein the virtual distance is calculated by the distance module using a distance mapping technique [Gusler, paragraph 62].

Regarding claim 4, Gusler-Herland further discloses wherein the distance mapping technique comprises identifying users accessing web pages having words or phrases of cognitive similarity [Gusler, paragraphs 62-63].

Regarding claim 6, Gusler-Herland further discloses displaying for the user a listing of the other users further comprises displaying the listing of other users in a graphical user interface (GUI) [Gusler, paragraph 39 and figure 5].

Regarding claim 7, Gusler-Herland further discloses wherein the GUI comprises a web browser [Gusler, paragraph 39 and figure 5].

Regarding claim 8, Gusler-Herland further discloses enabling the user to access profile data associated with one or more of the other users selected from the displayed listing [Gusler, paragraph 58].

Regarding claim 9, Gusler-Herland further discloses the profile data comprises one or more of contact information, demographic information, profession, hobbies, or interests [Gusler, paragraph 63].

Regarding claim 10, Gusler-Herland further discloses enabling the user to communicate with one or more of the other users selected from the displayed listing further comprises enabling the user to instant message one or more of the other users selected from the displayed listing [Gusler, paragraphs 52, 63 and 72].

Regarding claim 11, Gusler-Herland further discloses enabling the user to communicate with one or more of the other users selected from the displayed listing further comprises enabling the user to e-mail one or more of the other users selected from the displayed listing [Gusler, paragraphs 43 and 52].

Regarding claim 20, Gusler-Herland further discloses wherein the affinity between the data associated with the user and data associated with the other users is determined using similarity of profile attributes [Gusler, paragraphs 57 and 62-63].

Regarding claim 21, Gusler-Herland further discloses identifying the web page that the user is accessing [Gusler, paragraph 57].

Regarding claim 22, Gusler-Herland further discloses determining the presence of other users at or near the web page that the user is accessing [Gusler, paragraphs 57 and 62].

Regarding claim 23, Gusler-Herland further discloses means for identifying the web page that the user is accessing [Gusler, paragraphs 57 and 62].

Regarding claim 24, Gusler-Herland further discloses means for determining the presence of other users at or near the web page that the user is accessing [Gusler, paragraphs 57 and 62].

Regarding claim 26, Gusler-Herland further discloses tracking the virtual location of the user and each of the other users anywhere on the Internet [Herland, paragraph 25].

Regarding claim 27, Gusler-Herland further discloses means for tracking the virtual location of the user and each of the other users anywhere on the Internet [Herland, paragraph 25].

Regarding claim 29, Gusler-Herland further discloses enabling the user to communicate via the first terminal with one or more of the other users from the displayed listing [Gusler, paragraph 52].

Regarding claim 30, Gusler-Herland further discloses wherein the list of other users is ranked in order of nearest to furthest virtual distance from the web page that the user is accessing [Gusler, paragraph 49].



Regarding claim 31, Gusler-Herland further discloses wherein the list of other users is compiled based on the virtual distance between the web page that the user is accessing and the web pages accessed by the other users being with a predetermined virtual distance [Gusler, paragraphs 49 and 62].

Regarding claim 33, Gusler-Herland further discloses wherein the user can communicate with one or more of the other users from the displayed listing [Gusler, paragraph 52].

Regarding claim 34, Gusler-Herland further discloses a communication module operating on the server for enabling the user to communicate with one or more of the other users via the first terminal [Gusler, paragraph 52].

Regarding claim 35, Gusler-Herland further discloses wherein the virtual distance is calculated upon the user accessing a web page through the first terminal [Gusler, paragraphs 45 and 47].

Regarding claim 36, Gusler-Herland further discloses providing a server having a distance calculating module operating thereon [Gusler, paragraphs 45 and 47]; using the distance calculating module to calculate a virtual distance between a web page that a user is accessing through a first terminal and web pages accessed by other users through one or more second terminals [Gusler, paragraphs 45, 47 and 62],

wherein: the web page that the user is accessing and each of the web pages accessed by other users comprise any web page on the Internet [Herland, paragraph 25], and the virtual distance is calculated by making a comparison between web page parameters selected from the group consisting of the URI address of the web page accessed by the user to the URI address of one or more of the web pages accessed by other users and words or phrases contained in the web page accessed by the user to words or phrases contained in one or more of the web pages accessed by other users; displaying for the user on a display a listing of the other users that are accessing a web page that contains words or phrases that are cognitively similar to the words or phrases contained in the web page that the user is accessing [Gusler, paragraph 62]; and enabling the user to communicate with one or more of the other users from the displayed listing [Gusler, paragraph 52].

Regarding claim 37, Gusler-Herland further discloses providing a server having a distance calculating module operating thereon [Gusler, paragraphs 45 and 47]; using the distance calculating module to calculate a virtual distance between a web page that a user is accessing through a first terminal and web pages accessed by other users through one or more second terminals [Gusler, paragraphs 45, 47 and 62], \wherein: the virtual distance is calculated by comparing the Uniform Resource Identifier (URI) address of the web page that the user is accessing to the URI address of one or more of the web pages accessed by other users [Gusler, paragraph 62], and

the web page that the user is accessing and each of the web pages accessed by other users comprise any web page on the Internet [Herland, paragraph 25]  
displaying for the user on a display a listing of the other users that are accessing a web page having a URI address that is within a predetermined virtual distance of the URI address of the web page that the user is accessing [Gusler, paragraph 62]; and  
enabling the user to communicate with one or more of the other users from the displayed listing [Gusler, paragraph 52].

Regarding claim 38, Gusler-Herland further discloses providing a server having a distance calculating module operating thereon [Gusler, paragraphs 45 and 47];  
using the distance calculating module to calculate a virtual distance between a web page that a user is accessing through a first terminal and web pages accessed by other users through one or more second terminals [Gusler, paragraphs 45, 47 and 62],  
wherein: the virtual distance is calculated by comparing words or phrases contained in the web page that the user is accessing to words or phrases contained in one or more of the web pages accessed by other users, and the web page that the user is accessing [Gusler, paragraph 62] and  
each of the web pages accessed by other users comprise any web page on the Internet [Herland, paragraph 25]  
displaying for the user on a display a listing of the other users that are accessing a web page that contains words or phrases that are cognitively similar to the words or phrases contained in the web page that the user is accessing [Gusler, paragraph 62]; and

enabling the user to communicate with one or more of the other users from the displayed listing [Gusler, paragraph 52].

Regarding claim 39, Gusler-Herland further discloses calculating a degree of conceptual nearness of a web page that a user is accessing through a first terminal to web pages accessed by other users through one or more second terminals [Gusler, paragraphs 45, 47 and 62],

wherein the web page that the user is accessing and each of the web pages accessed by other users comprise any web page on the Internet [Herland, paragraph 25], and the degree of conceptual nearness is calculated by making a comparison between web page parameters selected from the group consisting of the URI address of the web page accessed by the user to the URI address of one or more of the web pages accessed by other users and words or phrases contained in the web page accessed by the user to words or phrases contained in one or more of the web pages accessed by other users [Gusler, paragraph 62];

displaying for the user on a display a listing of the other users that are accessing a web page that is within a predetermined degree of conceptual nearness to the web page that the user is accessing [Gusler, paragraph 62]; and

enabling the user to communicate with one or more of the other users from the displayed listing [Gusler, paragraph 52].

4. Claims 2 and 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gusler-Herland as applied to claim 1 above, and further in view of Cohen.

Regarding claim 2, Gusler-Herland does not specifically disclose receiving a Uniform Resource Identifier (URI) address of the web page that the user is accessing].

However, Cohen, in the same field of endeavor discloses providing a list including the web page being accessed by another user [Cohen, column 12, lines 27-43 and figure 10].

It would have been obvious to one having ordinary skill in the art at the time the invention was made to include listing the other users web page URL in order to allow the user to identify the web page being accessed and determine if they would like to join the other user or communicate with the other user.

Regarding claim 5, Gusler-Herland-Cohen further discloses wherein the distance mapping technique comprises comparing a Uniform Resource Identifier (URI) address of the web page that the user is accessing to URI addresses of the web pages being accessed by other users [Cohen, column 7, lines 11-39].

5. Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Gusler-Herland as applied to claim 1 above, and further in view of Wengrovitz, (US Publication No. 2005/0141688).

Regarding claim 12, Gusler-Herland does not specifically disclose enabling the user to communicate with one or more of the other users selected from the displayed listing further comprises enabling the user to initiate a voice over Internet protocol (VoIP) communication with one or more of the other users selected from the displayed listing.

However, Wengrovitz, in the same field of endeavor, discloses presence notification [Wengrovitz, paragraph 6, lines 6-13] with VoIP [Wengrovitz, paragraph 5, lines 8-14]. It would have been obvious to one having ordinary skill in the art at the time the invention was made to incorporate voice over Internet Protocol communication via presence notification listing in order to increase the multi-media communication options on-line.

6. Claims 13-14 and 16-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gusler-Herland as applied to claim 1 above, and further in view of Nachman et al., (US Publication No. 2001/0027474), (hereinafter Nachman).

Regarding claim 13, Gusler-Herland does not specifically disclose enabling the user to communicate with one or more of the other users selected from the displayed listing further comprises enabling the user to initiate a transaction with one or more of the other users selected from the displayed listing.

However, Nachman discloses allowing a user bid against other users [Nachman, paragraphs 18 and 21].

It would have been obvious to one having ordinary skill in the art at the time the invention was made to include transactions between users in order to provide a 'richer' experience to the users.

Regarding claim 14, Gusler-Herland-Nachman further discloses the transaction comprises an exchange of currency [Nachman, paragraph 45].

Regarding claim 16, Gusler-Herland-Nachman further discloses enabling the user to execute a search query a against a search engine [Nachman, paragraph 20].

Regarding claim 17, Gusler-Herland-Nachman further discloses results of the search query comprise a listing of one or more web pages, and wherein each of the one or more web pages listed is displayed with an associated visual indicator displaying a number of users currently accessing that respective web page [Nachman, paragraph 40].

7. Claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over Gusler-Herland-Nachman as applied to claim 13 above, and further in view of Pugliese III et al., (hereinafter Pugliese), (US Publication No. 2001/0016825).

Regarding claim 15, Gusler-Herland-Nachman does not specifically disclose the transaction comprises an exchange of at least one of airline frequent flier miles, or affinity program points.

However, Pugliese, discloses charging frequent flier miles [Pugliese, paragraph 65, lines 11-19].

It would have been obvious to one having ordinary skill in the art at the time the invention was made to incorporate frequent flier miles as a financial transactions to increase the client's options for financial payments.

### ***Conclusion***

8. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.



Examiner's Note: Examiner has cited particular paragraphs / columns and line numbers in the reference(s) applied to the claims above for the convenience of the applicant. Although the specified citations are representative of the teachings of the art and are applied to specific limitations within the individual claim, other passages and figures may apply as well. It is respectfully requested from the applicant in preparing responses, to fully consider the references in entirety as potentially teaching all or part of the claimed invention, as well as the context of the cited passages as taught by the prior art or relied upon by the examiner.

Should applicant amend the claims of the claimed invention, it is respectfully requested that applicant clearly indicate the portion(s) of applicant's specification that support the amended claim language for ascertaining the metes and bounds of applicant's claimed invention.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to WILLIAM GOODCHILD whose telephone number is (571)270-1589. The examiner can normally be reached on Monday - Friday / 8:00 AM - 4:00 PM EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vivek Srivastava can be reached on (571) 272-7304. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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